

REMARKS

This Response to Restriction Requirement is responsive to the Restriction Requirement dated March 29, 2004. Applicants request entry of the amendments to the claims and reconsideration and withdrawal of the restriction requirement. Applicants provisionally elect claims 1-24 with traverse.

Claim 13 has been amended for antecedent consistency

Claim 13 is amended herein to replace "polarization material" with "polarization-sensitive material", thus providing proper antecedent basis with respect to base claim 1. This amendment adds no new matter, and is believed to place the application into better form for substantive examination.

Applicants provisionally elect claims 1-24 with traverse

Applicants provisionally elect method claims 1-24 with traverse. Substantive arguments traversing the restriction requirement are set forth below.

The restriction requirement should be withdrawn

The primary basis asserted for imposing a process-of-making/product made restriction is the following:

[T]he method as claimed discloses the mixture as first disposed on a substrate, and then applying a polarized light and inducing phase separation of the mixture. The article claim does not prescribe such an ordering, thus making it possible for the mixture to be separated after application to the substrate.

This basis improperly reads non-existent limitations into method claim 1, which does not include the ordering words first and then. It is improper to read a specific order of steps into a method claim where, as a matter of logic or grammar, the language of the method claim does not impose a specific order of performance of the steps, and the specification does not directly or implicitly require a particular order. MPEP § 2111.01 (citing

Altiris Inc. v. Symantec Corp., 318 F.3d 1363, 1371, 65 USPQ2d 1865, 1869-70 (Fed. Cir. 2003)).

Moreover, even if claim 1 is, for the sake of argument, construed as calling for *first* disposing the mixture on the substrate and then applying a polarized light, this process is in agreement with the Restriction Requirement's proposed construction of article claim 25 as having the mixture separated after application to the substrate.

Accordingly, the primary basis for restriction is improper and should be withdrawn.

The Restriction Requirement also sets forth an alternative basis for restriction:

the article as claimed is not necessarily phase separated, since the mixture is recited only as "capable" of separation into a microstructure of liquid crystal material and polarization-sensitive material.

Claim 25 has been amended herein to replace "mixture is capable of separation" with "mixture is separated", and to replace "material layer is capable of imparting alignment properties" with "material layer imparts alignment properties". These amendments clarify that the article of claim 25 is phase separated. Accordingly, the alternative basis for restriction is obviated.

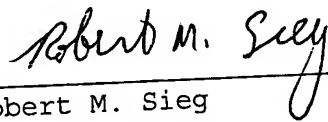
For the reasons set forth above, Applicants respectfully request reconsideration and withdrawal of the process-of-making/product made restriction requirement.

CONCLUSION

Applicants request entry of the amendments to the claims, and further request reconsideration and withdrawal of the restriction requirement. Applicants provisionally elect method claims 1-24 with traverse.

Respectfully submitted,

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